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**FLORIDA** | Board of Orthotists & Prosthetists

DRAFT MINUTES  
August 20, 2015

Rosen Centre Hotel  
9840 International Drive  
Orlando, Florida 32819



Tommy Chmielewski, LPO  
**Chair**

Addam C. Griner, CPO  
**Vice-Chair**

Anthony Spivey, DBA  
**Executive Director**

1 **General Board Business started: 9:00 a.m.**

- 2
- 3 **I.** The meeting was called to order by Mr. Chmielewski, Chair. Those present for all or part of the meeting included the
- 4 following:
- 5

6 **MEMBERS PRESENT:**

7 Tommy Chmielewski, LPO, Chair  
8 Addam C. Griner, CPO, Vice Chair  
9 Brett Saunders, CPO, FAAOP  
10 Ruphlal R. Gooljar, CPO, MA  
11 George H. Meyer, Jr.

12 **STAFF PRESENT:**

13 Anthony B. Spivey, DBA, Executive Director  
14 Joseph Lesho, Program Operations Administrator  
15 Michele Jackson, Regulatory Supervisor/Consultant  
16 Towanda Burnett, Compliance Officer

17 **BOARD COUNSEL:**

18 Rachel Clark, Assistant Attorney General  
19 Office of Attorney General

20 **COURT REPORTER:**

21 American Court Reporting  
22 Cindy Green  
23 407-896-1813

24 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline.*  
25 *AUDIO from this meeting can be found online: <http://floridasorthotistsprosthetists.gov/meeting-information/>*

26 Dr. Spivey recognized the Bureau Chief of the Bureau of Health Care Practitioner Regulation, Ms. Adrienne Rodgers, BSN,  
27 JD, who was in attendance for the meeting.

28 **Section II started at 9:01 a.m.**

29 **II. APPROVAL OF MINUTES:**

30 The board reviewed the minutes of the May 29, 2015 conference call.

31 Mr. Lesho pointed out on page 5, line 29 the word “reserve” should be changed to “reverse.”

32 **Board Action:** Motion to accept the minutes with the noted correction was made by Mr. Chmielewski. Seconded by Mr.  
33 Saunders.

34 Vote: 5 ayes / 0 opposed; motion carried

35 The board reviewed the minutes of the June 9, 2015 conference call.

36 **Board Action:** Motion to accept the minutes as written was made by Mr. Chmielewski. Seconded by Mr. Griner.

37 Vote: 5 ayes / 0 opposed; motion carried

38 **Section II concluded at 9:03 a.m.**

39 **Section III started at 9:03 a.m.**

40 **III. FINAL ORDER ACTIONS:**

41 **a. Modification of Final Order**

42 **i. Robert Alan Feldman – tabled from previous meeting**

43 Mr. Feldman was not present and was not represented by counsel.

44 Mr. Feldman appeared before the board at the May 29, 2015 meeting. During the discussion of his Petition  
45 for Modification of Final Order, Mr. Griner had to excuse himself, causing the board to lose quorum, so the  
46 issue was tabled.

At the time of his initial appearance, Mr. Feldman was past due on two Respondent Reports (due 11/17/2014 and 02/17/2015), Costs in the amount of \$1785.92 (due 02/17/2015), a Fine in the amount of \$750.00 (due 02/17/2015), and a 2-hour Laws and Rules Course (due 02/17/2015). The Patient Refund Verification was received on April 28, 2015. On July 27, 2015, proof of completion of the 2-hour Laws and Rules Course was received, and on July 28, 2015, Mr. Feldman submitted a payment of \$50, leaving a total outstanding balance of \$2485.92 (Costs and Fines combined).

**Discussion:**

Mr. Gooljar made a motion to grant a 6-month extension. The motion was not seconded.

Mr. Saunders stated that he was not inclined to grant an extension. Mr. Chmielewski agreed, stating that he believes the required payments should be completed.

**Board Action:** Motion to deny the Petition for Modification of Final Order was made by Mr. Chmielewski. Seconded by Mr. Saunders.

Vote: 5 ayes / 0 opposed; motion carried

**b. Informal Hearing – No Disputed Material Facts**

**i. Daniel Reuben Reid 2014-06486**

Mr. Reid was present and was not represented by counsel.

Mr. Chmielewski was recused due to participation on the Probable Cause Panel.

Mr. Gooljar recused himself, citing personal reasons that would prevent him from remaining unbiased. Since two members were recused, the board no longer had a quorum for final action.

Ms. Clark stated that if the board continues to have quorum issues with this case, then a special panel will have to be put together by the department to take final action, but if the quorum issue could be resolved before the next meeting, the case could be heard at that time.

Section III concluded at 9:19 a.m.

Addendum Item started at \_\_\_\_ a.m.

**ADDENDUM ITEM – APPLICATION PRESENTED FOR BOARD REVIEW:**

**a. Justin Matthew Kuntze – Prosthetist/Orthotist**

Mr. Kuntze was present and was represented by counsel, Bruce Lamb, Esq. Other representative: Employer/Supervisor, David Lawrence Faulk (License No. POR11)

Mr. Kuntze submitted an application for licensure as a Prosthetist/Orthotist on June 1, 2015. The application was brought before the full board to review Mr. Kuntze's criminal history. Mr. Kuntze indicated that he had no criminal history; however, the background check results revealed a class C felony committed in 2001. Mr. Kuntze has submitted to the board office a letter explaining the criminal charge and an explanation for omitting the information on the application (found on page 25 of the addendum). All conditions of the final judgment from the case have been completed.

**Discussion:**

Mr. Faulk spoke in support of granting Mr. Kuntze a license, and stated that though Mr. Kuntze is currently working in a support personnel role until he can obtain a license, he has been impressed with his clinical knowledge and competency.

Mr. Kuntze then provided information regarding his professional and educational background, and provided details regarding his criminal history.

1 Mr. Saunders asked Mr. Kuntze why he answered “no” to the criminal history question on the application. Mr.  
2 Kuntze explained that the arrest happened 13 years prior and that he had fulfilled all obligations associated with it,  
3 and he believed it was no longer part of his record.  
4 Mr. Chmielewski said that he thought convictions of this nature that were more than 5 years old were not required to  
5 be reported. Ms. Clark confirmed that to be the case; therefore, she explained to the board that they can deny the  
6 application based on the false information provided, but not based on the felony conviction.  
7

8 After additional discussion, Mr. Saunders, citing Rule 64B14-7.003, F.A.C., made a motion to approve the  
9 application for licensure, but also require a Rules and Ethics course, impose a \$500 fine, and require that a corrected  
10 application be submitted to the board office within 90 days.  
11

12 **Action:** Motion to approve the application for licensure and require a Rules and Ethics course, impose a \$500 fine,  
13 and require that a corrected application be submitted to the board office within 90 days was made by Mr. Saunders.  
14

15 Seconded by Mr. Griner.

16 Vote: 5 yeas / 0 opposed; motion carried

17 **Addendum Item concluded at 9:41 a.m.**

18 **Section IV started at 9:41 a.m.**

#### 19 **IV. RATIFICATION OF LICENSURE:**

20  
21 Mr. Saunders pointed out that Orthotist/Prosthetist license number 297 and Prosthetist license number 166 were the same  
22 person. After researching the issue, Mr. Lesho explained that Prosthetist license number 166 was Voluntarily Relinquished,  
23 and did not need to be ratified.  
24

##### 25 **a. Orthotists/Prosthetists:**

26  
27 **Action:** Motion to ratify the issuance of Orthotists/Prosthetists license numbers 296 through 298 was made by Mr.  
28 Saunders. Seconded by Mr. Griner.

29 Vote: 5 yeas / 0 opposed; motion carried  
30

##### 31 **b. Prosthetists:**

32  
33 **Action:** Motion to ratify the issuance of Orthotists license numbers 163 through 165 (166 was omitted as stated  
34 above) was made by Mr. Saunders. Seconded by Mr. Griner.

35 Vote: 5 yeas / 0 opposed; motion  
36

##### 37 **c. Orthotists:**

38 Mr. Saunders recused himself because one of the licenses on the ratification list was issued to an employee of his.  
39

40  
41 **Action:** Motion to ratify the issuance of Orthotists license numbers 265 through 268 was made by Mr. Chmielewski.  
42 Seconded by Mr. Griner.

43 Vote: 4 yeas / 0 opposed; motion carried  
44

##### 45 **d. Orthotic Fitter:**

46  
47 **Action:** Motion to ratify the issuance of Orthotic Fitter license number 254 was made by Mr. Saunders. Seconded  
48 by Mr. Chmielewski.

49 Vote: 5 yeas / 0 opposed; motion carried  
50

##### 51 **e. Orthotic Fitter Assistant:**

52  
53 **Action:** Motion to ratify the issuance of Orthotic Fitter Assistant license numbers 328 and 329 was made by Mr.  
54 Saunders. Seconded by Mr. Chmielewski.

55 Vote: 5 yeas / 0 opposed; motion carried  
56

##### 57 **f. Pedorthists:** No Pedorthists licenses were issued during this period. 58

1           **g. Orthotic Resident:**

2  
3           **Action:** Motion to ratify the issuance of Orthotic Resident license numbers 147 through 148 was made by Mr.  
4           Saunders. Seconded by Mr. Griner.

5           Vote: 5 yeas / 0 opposed; motion carried

6  
7           **h. Prosthetic Resident:**

8  
9           **Action:** Motion to ratify the issuance of Prosthetic Resident license numbers 88 through 89 was made by Mr.  
10          Saunders. Seconded by Mr. Chmielewski.

11          Vote: 5 yeas / 0 opposed; motion carried

12  
13          Section IV concluded at 9:47 a.m.

14          Section V started at 9:47 a.m.

15  
16          **V. PROSECUTION REPORT:**

17          Mr. Dierlam explained to the board that Mr. Reid's case was the only open case for this board.

18  
19          Section V concluded at 9:48 a.m.

20          Section VI started at 9:48 a.m.

21  
22          **VI. CHAIR/VICE CHAIR REPORT:**

- 23  
24           **a. Future Agenda Items:** Nothing to report

25  
26          Section VI concluded at 9:49 a.m.

27          Section VII started at 9:49 a.m.

28  
29          **VII. EXECUTIVE DIRECTOR'S REPORT:**

30  
31          Dr. Spivey informed the board the Dr. David Cheong has submitted a letter of resignation to the Office of the Governor.

32  
33           **a. Chair/Vice Chair Meeting – September 24, 2015**

34          Dr. Spivey informed the board that on September 23, 2015, the department will hold a Healthiest Weight  
35          meeting, which Mr. Gooljar will attend; and on September 24, 2015, the department will hold its annual  
36          Chair/Vice-Chair meeting, which Mr. Chmielewski will attend. Mr. Griner will be unable to attend.

37  
38           **b. 2016 Board Meeting Dates –**

- 39  
40           **i. January 22, 2016**  
41           **ii. March 25, 2016**  
42           **iii. July 8, 2016**  
43           **iv. September 30, 2016**

44  
45          The board agreed to change the July date to July 13, 2016 so that the meeting can be held in  
46          conjunction with the Florida Association of Orthotists and Prosthetists (FAOP) annual meeting.

47  
48          Ms. Adrienne Rodgers then addressed the board to provide further detail about the Chair/Vice-  
49          Chair meeting. She explained that in past years, the Chair/Vice-Chair meeting only consisted of a  
50          presentation from the department, but this year the State Surgeon General would like input from  
51          all of the boards regarding their views on the future of their professions, and what they feel they  
52          need from the department. She also mentioned the idea of joint meetings between different boards  
53          to encourage more collaborative efforts between professions.

1 **c. Discussion of Trulife Orthotics Course**

2  
3 Dr. Spivey explained that the board office received an e-mail from Denise Kerwin of St. Petersburg  
4 College informing them that the Trulife Orthotics course is now being offered by St. Petersburg College.  
5 The board discussed whether or not this would necessitate a rule change, as Trulife is specifically  
6 identified as the provider in Rule 64B14-4.110, F.A.C. Ms. Kerwin's e-mail that the curriculum of the  
7 course was unchanged.

8  
9 Mr. Lesho asked Ms. Kerwin if the name Trulife still appears on the course materials and advertisements,  
10 to which she responded yet. In light of that fact, Ms. Clark stated that a rule change would not be  
11 necessary.

12  
13 **Action:** Motion to accept St. Petersburg College as the provider of the Trulife Orthotics course was made  
14 by Mr. Saunders. Seconded by Mr. Griner.  
15 Vote: 5 yeas / 0 opposed; motion carried  
16

17 **Section VII concluded at 10:14 a.m.**

18 **Section VIII started at 10:14 a.m.**

19  
20 **VIII. BOARD COUNSEL REPORT:**

21  
22 **a. Rules Status Report – June 2015**

23 Ms. Clark presented the rules report to update board on status of pending rule changes.

24  
25 She stated that the changes to Rule 64B14-3.001, F.A.C. are not necessary because Orthotic Fitter Assistant is already  
26 defined in statute.

27  
28 Mr. Saunders explained that the board wished to define Orthotic Assistant, not Orthotic Fitter Assistant. He stated that he  
29 will address the issue during committee reports.

30  
31 Ms. Clark then explained that the proposed changes to Rules 64B14-4.003 and 4.005, F.A.C. are not necessary because  
32 the background check process is already addressed in statute. She then requested that the board withdraw these rules for  
33 development.

34  
35 **Action:** Motion to withdraw Rules 64B14-4.003 and 4.005, F.A.C. from development was made by Mr. Chmielewski.  
36 Seconded by Mr. Saunders.  
37 Vote: 5 yeas / 0 opposed; motion carried  
38

39 **b. Disciplinary Guidelines – Proposed Rule Changes**

40 Ms. Clark presented proposed changes to Rule 64B14-7.003, F.A.C.

41  
42 **Action:** Motion to approve the proposed changes was made by Mr. Chmielewski. Seconded by Mr. Saunders.  
43 Vote: 5 yeas / 0 opposed; motion carried  
44

45 **c. Review of Suggested Rules for Repeal taken before b.**

46 Ms. Clark suggested that the board repeal Rules 64B14-2.012 and 4.0035, F.A.C. due to duplicity with the statutes.

47  
48 **Action:** Motion to repeal Rules 64B14-2.012 and 4.0035, F.A.C. was made by Mr. Saunders. Seconded by Mr. Griner.  
49 Vote: 5 yeas / 0 opposed; motion carried  
50

51  
52 Ms. Clark then asked if repealing the rules would have an adverse impact on small business or be likely to directly or  
53 indirectly increase regulatory costs in excess of \$200,000 in the aggregate within one year after repealing. The board  
54 agreed to answer "no."  
55

56 **Section VIII concluded at 10:25 a.m.**

57 **Section IX started at 10:25 a.m.**

1  
2 **IX. OLD BUSINESS:**

3 Mr. Chmielewski brought up the idea that Mr. Saunders had to incorporate principles of Healthiest Weight into the board's  
4 continuing education requirements.

5  
6 After discussion, Mr. Saunders suggested adding Healthy Weight courses through CE Broker and making them optional, but  
7 then adding information about it to the board's website.  
8

9 **Section IX concluded at 10:31 a.m.**

10 **Section X started at 10:31 a.m.**

11  
12 **X. NEW BUSINESS:**

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14  
15 **Section X concluded at 10:31 a.m.**

16 **Section XI started at 10:31 a.m.**

17  
18 **XI. COMMITTEE REPORTS**

19  
20 **a. Budget – George Meyer:** Nothing to report.

21  
22 Dr. Spivey informed the board that he is trying to have financial statements presented to the board ahead of their  
23 meetings so that the budget chair could have a more substantial report to give to the board.  
24

25 **b. Continuing Education – Tommy Chmielewski:** Nothing new to report

26  
27 **c. Credentials – Brett Saunders:** Nothing to report

28  
29 **d. Disciplinary Compliance – Tommy Chmielewski:** Mr. Chmielewski asked Ms. Burnett if there were any other  
30 compliance cases of which he should be aware. Ms. Burnett said she will look into the reports, and will provide them to  
31 him via e-mail.  
32

33 **e. Healthy Weight – Ruphlal Gooljar:** Mr. Gooljar presented a study conducted by the University of Wisconsin, which  
34 named St. John's County the healthiest county in Florida.  
35

36 **f. Legislation – Addam Griner:** Mr. Griner told the board that a previous bill attempting to expand the scope of practice  
37 of Physical Therapists to include Orthotist and Prosthetist duties may be presented again at the next legislative session.  
38 He then explained that at the recent FAOP meeting, the members voted unanimously to oppose new levels of licensure  
39 being created.  
40

41 **g. Probable Cause – George Meyer:**

42  
43 **i. Stats:** Mr. Meyer provided a summary of the most recent Probable Cause Panel meeting.  
44

45 **h. Rules – Mr. Saunders:** Mr. Saunders made a presentation to convince the board to add a new class of Supportive  
46 Personnel to include Orthotic Assistants, Prosthetic Assistants, and Orthotic/Prosthetic Assistants. He stated that he  
47 believes if programs in Florida are awarding Associate degrees students in these programs, there should be a place for  
48 them to work in the profession upon completion. He then discussed the scope of practice of the proposed Supportive  
49 Personnel class.  
50

51 Ms. Clark stated that she doesn't believe the board has statutory authority to make such a change.

52  
53 Members of the audience then addressed the board regarding the issue.

54  
55 Ashley Kalifeh, representing FAOP, spoke out in opposition of the change.

56  
57 Nelson Lemarquand of St. Petersburg College spoke in favor of the change.  
58

1 Cathie Williams, a licensed Orthotic Fitter, spoke out against the change.

2  
3 Ms. Clark stated that from a legal standpoint, she does not see the need to specify these new types of Supportive  
4 Personnel, and suggested addressing the issue at the next board meeting to allow the board and other entities to prepare  
5 and present arguments for and against the change.  
6

- 7 **i. Unlicensed Activity – Mr. Gooljar:** No representative from the department’s Unlicensed Activity unit was present, but  
8 Ms. Rodgers explained that she spoke with the head of that section and stated that a representative will make a  
9 presentation at the board’s next meeting.  
10

11 **Section XI concluded at 11:17 a.m.**

12 **Section XII started at 11:17 a.m.**

13  
14 **XI. NEXT MEETING DATE:** October 9, 2015 – Tampa  
15

16 **XII. ADJOURNMENT**  
17

18 **Board Action:** Motion to adjourn the meeting was made by Mr. Chmielewski. Seconded by Mr. Saunders.  
19 Vote: 5 yeas / 0 opposed; motion carried  
20

21 **General Board Business concluded at 11:18 a.m.**

22 **The meeting was adjourned at 11:18 a.m.**